

26 January 1987

ARTICLE APPEARED
ON PAGE 24

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Iran Scandal Shows Need to Overhaul Congressional Oversight of Intelligence

WASHINGTON

INSIGHT

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WASHINGTON—Last Wednesday, Secretary of State George Shultz told the House Foreign Affairs Committee behind closed doors about a secret meeting between U.S. and Iranian officials. Within an hour, reporters from The Wall Street Journal and other news organizations were calling the State Department and the Central Intelligence Agency for comments on the confidential testimony.

The incident, along with the whole sad history of the Iran debacle, suggests that congressional oversight of U.S. intelligence activities still doesn't work very well. Despite numerous efforts during the last decade to strengthen congressional supervision without exposing all the CIA's operations, intelligence officials still don't trust Congress to keep secrets, and Congress doesn't trust the CIA to tell the truth.

The Reagan administration weaved its way through a series of loopholes in the laws governing covert actions to keep Congress in the dark about its secret arms sales to Iran and its attempts to keep Nicaraguan rebels in beans and bullets. But it paid an enormous price to maintain such secrecy: It had to hide its activities from most of its own officials, including those who could have warned how dangerous the administration's course was. And belated disclosures of the operations have severely damaged its relations with Congress.

Overhaul Intelligence Laws

It remains for the lawyers—and perhaps ultimately the courts—to decide if the administration broke the law or just bent it. But some intelligence experts already argue that, when it finishes investigating the Iran-Contra affair, Congress should begin overhauling the nation's intelligence statutes and reforming the House and Senate Intelligence committees.

"The oversight committees don't work," argues former CIA official Allan Goodman, now associate dean of the School of Foreign Service at Georgetown University.

Mr. Goodman and his former boss, ex-CIA director Stansfield Turner, believe the CIA needs an up-to-date charter that spells out the agency's responsibilities for espionage, covert action, and counterintelligence. Such a charter would establish rules governing such activities and spell out the penalties for violating them.

"Every other agency of the government has a charter, and the CIA should too," argues Mr. Goodman.

At present, U.S. intelligence activities are regulated by overlapping and inconsistent laws, by executive orders drafted anew by each administration, and by national security decision directives issued periodically by the president. The administration's Iran arms sales, and its two-year-old effort to supply the Nicaraguan rebels despite congressional restrictions on U.S. aid to the Contras, reveal the weaknesses and ambiguities of this haphazard arrangement.

First, it was easier for the administration to ignore its own edicts than to skirt a clear, congressionally established intelligence charter. Thus, without penalty, the White House failed to inform the cabinet-level National Security Planning Group, which it established partly to review and approve all covert actions, about either the arms sales to Iran or the details of U.S. assistance to the Nicaraguan insurgents.

It also freely ignored a lower-level interagency group that it had assigned to work out details of proposed covert actions and submit them to the National Security Planning Group for approval.

Second, a loophole in the National Security Act of 1947 enabled the administration to avoid telling Congress it was selling arms to Iran until a Lebanese magazine revealed the secret in November. The law allows the administration to avoid giving lawmakers advance notice of some covert activities, provided it discloses them "in a timely fashion." Congressional officials generally have interpreted "timely" to mean within four or five days, but the administration construed it to mean almost a year after the arms sales began.

Finally, a 1984 agreement between CIA Director William Casey and the congressional intelligence committees failed to keep lawmakers informed about CIA operations. Mr. Casey promised to notify eight congressional leaders—the majority and minority leaders of the House and Senate and of the two intelligence committees—of sensitive covert actions he didn't want to reveal to the full committees.

Avoiding the Commitment

But less than two years later, Mr. Casey avoided the commitment by drafting a directive, which President Reagan signed, prohibiting him from notifying anyone about the Iranian arms sales.

A congressional charter for the intelligence community, as proposed by Adm.

Turner during the Carter administration, could eliminate many of these weaknesses while making it clear that covert action is both necessary and legitimate.

By establishing rules governing covert action that wouldn't change from administration to administration, a charter would remove some of the temptations inherent when administration officials can write their own rules. It could clarify Congress's right to be informed in advance of covert activities and set penalties both for failing to inform Congress and for disclosing secrets.

Most important, argues Adm. Turner in his book "Secrecy and Democracy," by forcing the administration to inform Congress about covert activities, an intelligence charter could guarantee that both branches of government share the responsibility for actions that go wrong. That's a timely thought.